

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JOSH COHEN,

Plaintiff,

v.

ACTION NETWORK, AFL-CIO, ACTION
SQUARED, NATHAN WOODHULL,
CIVITECH, DEMOCRATIC NATIONAL
COMMITTEE, MOVEON.ORG, NETROOTS
NATION,

Defendants.

23-CV-10359 (JAV)

ORDER OF DISMISSAL

JEANNETTE A. VARGAS, United States District Judge:

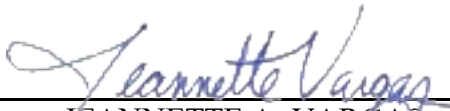
A statement noting the death of plaintiff having been served through the ECF system and filed in this matter on February 20, 2025 (ECF No. 85), and 90 days having elapsed without any motion for substitution having been filed, this action is dismissed pursuant to Rule 25(a)(1).

Defendant has moved for dismissal with prejudice. ECF Nos. 86, 88. The Court of Appeals for the Second Circuit has held that it is unnecessary for the person who files a suggestion of death on the record to identify the successor or legal representative of the deceased party. *Unicorn Tales, Inc. v. Banerjee*, 138 F.3d 467, 470 (2d Cir.1998). In this circumstance, however, dismissal without prejudice is appropriate. *See Miller v. DCM, Inc.*, No. 04 Civ.1931 (JGK), 2007 WL 959509, at *1 (S.D.N.Y. Mar. 15, 2007) (without prejudice dismissal appropriate where it is unclear if a legal successor exists).

The Clerk is requested to enter judgment dismissing this case without prejudice and to close this case.

Dated: May 23, 2025

New York, New York



JEANNETTE A. VARGAS
United States District Judge